



Dispute Resolution Services

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Residential Tenancy Branch
Office of Housing and Construction Standards

DECISION

Dispute Codes

MNSD, FFT

Introduction

This Hearing dealt with the Tenants' application pursuant *Residential Tenancy Act*, (the *Act*) for:

- A monetary order for damage or loss pursuant to section 38 (1) and 67 of the *Act*; and
- the return of the filing fee under section 72 of the *Act*.

The Tenant SC attended the Hearing on behalf of both tenants (the Tenant). The Landlord did not attend the teleconference. I confirmed that the correct call-in numbers and participant codes had been provided in the Notice of Hearing (the Notice). I also confirmed from the teleconference system that the Tenant and I were the only ones who had called into the teleconference.

The Tenant was given a full opportunity to provide sworn testimony and present evidence.

Issue(s) to be Decided

- Is the Tenant entitled to double the security and pet damage deposit; and
- Is the Tenant entitled to reimbursement for the filing fee?

Preliminary Issue – Service of Tenant's Application

As the Landlord was not in attendance, I proceeded to confirm that the Tenant served the Landlord with the Notice in accordance with the *Act*. The Tenant testified that he served the Landlord by leaving the Notice in the Landlord's mail box, at the Landlord's address.

Section 89(1) of the *Act* outlines the methods of service for an application for dispute resolution, which reads in part as follows (emphasis added):

89 (1) An application for dispute resolution ..., when required to be given to one party by another, must be given in one of the following ways:

- (a) by leaving a copy with the person;**
- (b) if the person is a landlord, by leaving a copy with an agent of the landlord;*
- (c) by sending a copy by registered mail to the address at which the person resides or, if the person is a landlord, to the address at which the person carries on business as a landlord;**
- (d) if the person is a tenant, by sending a copy by registered mail to a forwarding address provided by the tenant;*
- (e) as ordered by the director under section 71 (1) [director's orders: delivery and service of documents].*

As the method of service used by the Tenant is not an approved method under the *Act*, I find that the Tenant did not serve the Landlord with the application because it was left in the mailbox and it cannot be verified that the named person received the Notice.

As the Tenant failed to prove service in accordance with section 89(1) of the *Act*, I find that the Landlord was not served with the Tenant's application.

At the hearing, I advised the Tenant that I was dismissing the application with leave to reapply. I informed the Tenant that the Residential Tenancy Branch's Information Services' staff are available to assist tenants and landlords by providing information to parties to ensure proper processes for Dispute Resolution are adhered to, in the event the Tenant reapplies to pursue this matter further.

Conclusion

I order the application dismissed with leave to reapply. I make no findings on the merits of the matter. Leave to reapply is not an extension of any applicable limitation period.

This decision is made on authority delegated to me by the Director of the Residential Tenancy Branch under Section 9.1(1) of the *Residential Tenancy Act*.

Dated: October 18, 2018

Residential Tenancy Branch